

### **REMARKS**

The Applicant requests that the above Amendment be entered and the application examined as amended and in view of the remarks below.

By this Amendment the Applicant amended claims 35 and 46, and amended claim 36 to comply with amended claim 35, and introduced new claims 58-61.

Support for the amendment of claim 35 is found in paragraph [0091] of the as-published application. Please note that the description of the “attachment” that appears in this paragraph also applies to the attachment of the flexible member to the cartilage replacement material as described in the last sentence of paragraph [0091].

The inventions recited in claims 58-61 also find support in paragraph [0091].

Claims 35, 36, 38-43, 45-47, 49, and 51 through 61 are now pending in this application.

#### **I Acknowledgement of Assistance of Examiner**

The Applicant wishes to acknowledge with appreciation the assistance that the Applicant’s undersigned Agent received from Examiner Joshua Levine in a phone interview held on May 4, 2010. The Applicant believes that Mr. Levine’s assistance markedly advanced this application to allowance.

#### **II Response to Obviousness Rejection Based upon Hayhurst and Fallin**

Under the heading “Response to Arguments” and in paragraphs 4-12 of the Action, the Patent Office maintained its rejection claims 35, 36, 38, 43, 45-47, 49, 54, and 55 pursuant to 35 U.S.C. §103(a) as obvious in view of the combined teachings of U.S. Patent 5,647,874 of Hayhurst [herein “Hayhurst”] and U.S. Patent 6,978,027 of Fallin, et al. [herein “Fallin”]. The Applicant respectfully submits that the above amendments to claims 35 and 46 overcome these rejections.

As discussed in the above-referenced phone interview, Examiner Levine suggested that the attachment of the flexible member to the replacement section may distinguish the claimed

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invention from the cited art. Though helpful alternatives were discussed, the Applicant submits that the amendment recited in claims 35 and 46 is completely supported in the as-filed application and clearly distinguishes from the engagement of the suture with the tissue disclosed by Hayhurst.

The Applicant also submits that Hayhurst's and Fallin's failure to teach or suggest a "flexible member traversing through said section of cartilage replacement material multiple times" also distinguishes the claimed invention from the cited art.

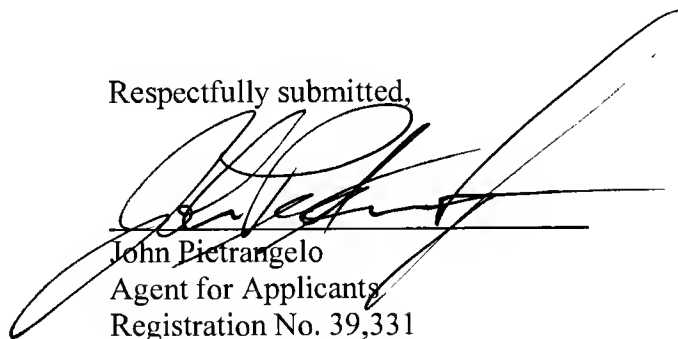
The Applicant respectfully requests that these rejections of claims 35 and 46 as obvious in view of Hayhurst and Fallin be reconsidered and withdrawn.

### **III CONCLUSION**

The Applicant believes that the above Amendment and Remarks place the application in allowable form. An early and favorable action on the merits of the application is requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, the Applicant's undersigned Agent invites the Examiner to telephone him at the number provided.

Respectfully submitted,



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